

**Executive Summary – Enforcement Matter – Case No. 48427**  
**Tomahawk Resources, LLC**  
**RN107088726**  
**Docket No. 2014-0435-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - MSW, WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Tomahawk Resources, 6019 Highway 44, Banquete, Nueces County

**Type of Operation:**

Fleet facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 3, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,134

**Amount Deferred for Expedited Settlement:** \$2,226

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$8,908

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** December 10, 2013

**Complaint Information:** Complainant alleged that the regulated facility is disposing of wash water, oils, hydraulic fluid and gear oil into an unlined earthen pit on site.

**Date(s) of Investigation:** December 19, 2013

**Date(s) of NOE(s):** February 14, 2014

**Executive Summary – Enforcement Matter – Case No. 48427**  
**Tomahawk Resources, LLC**  
**RN107088726**  
**Docket No. 2014-0435-MLM-E**

***Violation Information***

1. Failed to prevent the unauthorized disposal of municipal solid waste into or adjacent to waters in the State. Specifically, wash water generated from the cleaning of vehicles and equipment was discharged to an unlined earthen pit approximately 35 feet long, 15 feet wide and three feet deep at the Facility [30 TEX. ADMIN. CODE § 330.15(a)(1) and TEX. WATER CODE § 26.121].
2. Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, 65 barrels ("BBLs") of wash water were transported to the Rancho Nuevo Pit ["Railroad Commission" ("RRC") Permit No. PO11057] on November 18, 2013; 16 yards of solids were transported to the Premont Facility on January 27, 2014; 65 BBLs of wash water were transported to the WFI Premont facility on January 27, 2014; and 170 BBLs of wash water were transported to Eco Mud Disposal [RRC Permit No. STF-003 (date not included on manifest)] [30 TEX. ADMIN. CODE § 330.15(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. Submitted documentation to the TCEQ Corpus Christi Regional Office on January 30, 2014, detailing the removal of wash water from the pit and the installation of a synthetic liner; and
- b. Submitted documentation to the TCEQ Corpus Christi Regional Office on February 14, 2014, detailing procedures to ensure that all wastes are disposed at an authorized facility.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 48427**  
**Tomahawk Resources, LLC**  
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**Docket No. 2014-0435-MLM-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Michael Meyer, Enforcement Division,  
Enforcement Team 6, MC 128, (512) 239-4492; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Jeffrey Brian, Operating Member, Tomahawk Resources, LLC, P.O. Box  
628, Andrews, Texas 79714  
Jerome B. Richter, President, Tomahawk Resources, LLC, P.O. Box 628, Andrews,  
Texas 79714

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Feb-2014	<b>Screening</b>	28-Feb-2014	<b>EPA Due</b>	
	<b>PCW</b>	14-Mar-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Tomahawk Resources, LLC		
<b>Reg. Ent. Ref. No.</b>	RN107088726		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48427	<b>No. of Violations</b>	2
<b>Docket No.</b>	2014-0435-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$6,250**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for compliance history.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **-\$312**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$5,271  
Approx. Cost of Compliance \$17,448  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$5,938**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **87.5%** **Adjustment** **\$5,196**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost of compliance associated with violation no. 2.

**Final Penalty Amount** **\$11,134**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$11,134**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$2,226**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$8,908**

Screening Date 28-Feb-2014

Docket No. 2014-0435-MLM-E

PCW

Respondent Tomahawk Resources, LLC

Policy Revision 3 (September 2011)

Case ID No. 48427

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN107088726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 28-Feb-2014

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PCW

Respondent Tomahawk Resources, LLC

Policy Revision 3 (September 2011)

Case ID No. 48427

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN107088726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a)(1) and Tex. Water Code § 26.121

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste ("MSW") into or adjacent to waters in the state. Specifically, wash water generated from the cleaning of vehicles and equipment was discharged into an unlined earthen pit approximately 35 feet long, 15 feet wide and three feet deep at the Facility.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			x
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

42

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the December 19, 2013 investigation to the January 30, 2014 compliance date.

## Good Faith Efforts to Comply

25.0% Reduction

\$312

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on January 30, 2014, prior to the Notice of Enforcement ("NOE") dated February 14, 2014.

Violation Subtotal \$938

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$1,759

This violation Final Assessed Penalty (adjusted for limits) \$1,759

# Economic Benefit Worksheet

**Respondent** Tomahawk Resources, LLC  
**Case ID No.** 48427  
**Reg. Ent. Reference No.** RN107088726  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$11,000	19-Dec-2013	30-Jan-2014	0.12	\$63	n/a	\$63

### Notes for DELAYED costs

Actual delayed cost to remove the wash water from the earthen pit and install a synthetic liner based on an invoice provided by the Respondent. The date required is the investigation date and the final date is the date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$11,000

**TOTAL**

\$63



Screening Date 28-Feb-2014

Docket No. 2014-0435-MLM-E

PCW

Respondent Tomahawk Resources, LLC

Policy Revision 3 (September 2011)

Case ID No. 48427

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN107088726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

## Violation Description

Failed to prevent the unauthorized disposal of MSW. Specifically, 65 barrels ("BBLS") of wash water were transported to the Rancho Nuevo Pit ["Railroad Commission" ("RRC") Permit No. PO11057] on November 18, 2013; 16 yards of solids were transported to the Premont Facility (Permit No. LT-0078) on January 27, 2014; 65 BBLS were transported to the WFI Premont facility on January 27, 2014; and 170 BBLS of wash water were transported to Eco Mud Disposal [RRC Permit No. STF-003 (date not included on manifest)].

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			x
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 4

4 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Four single events are recommended (one for each shipment).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$5,208

Violation Final Penalty Total \$9,375

This violation Final Assessed Penalty (adjusted for limits) \$9,375

# Economic Benefit Worksheet

Respondent Tomahawk Resources, LLC  
Case ID No. 48427  
Reg. Ent. Reference No. RN107088726  
Media Municipal Solid Waste  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	19-Dec-2013	14-Feb-2014	0.16	\$12	n/a	\$12

Notes for DELAYED costs

Estimated delayed cost to establish procedures to ensure that wastewater is disposed at an authorized facility. The date required is the investigation date, and the final date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$4,948	18-Nov-2013	19-Dec-2013	1.00	\$248	\$4,948	\$5,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of 300 BBLs of wash water at an authorized facility based on invoices provided by the Respondent. The cost of disposal of the wash water was 38 cents per gallon and the cost of disposal for the solids is \$10 per yard. The date required is the initial unauthorized disposal date, and the final date is the investigation date.

Approx. Cost of Compliance

\$6,448

TOTAL

\$5,208

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN604509901, RN107088726, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN604509901, Tomahawk Resources, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN107088726, TOMAHAWK RESOURCES **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 6019 HIGHWAY 44 BANQUETE, TX 78339, NUECES COUNTY

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):** MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER R14107088726

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** March 14, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 14, 2009 to March 14, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Michael Meyer

**Phone:** (512) 239-4492

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

#### **F. Environmental audits:**

N/A

#### **G. Type of environmental management systems (EMSs):**

N/A

#### **H. Voluntary on-site compliance assessment dates:**

N/A

#### **I. Participation in a voluntary pollution reduction program:**

N/A

#### **J. Early compliance:**

N/A

#### **Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TOMAHAWK RESOURCES, LLC  
RN107088726**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-0435-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tomahawk Resources, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a fleet facility at 6019 Highway 44 in Banquete, Nueces County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Facility has caused suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any, rule, permit, or order of the commission.
4. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 19, 2014.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of Eleven Thousand One Hundred Thirty-Four Dollars (\$11,134) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Nine Hundred Eight Dollars (\$8,908) of the administrative penalty and Two Thousand Two Hundred Twenty-Six Dollars (\$2,226) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
10. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted documentation to the TCEQ Corpus Christi Regional Office on January 30, 2014, detailing the removal of wash water from the pit and the installation of a synthetic liner; and
  - b. Submitted documentation to the TCEQ Corpus Christi Regional Office on February 14, 2014, detailing procedures to ensure that all wastes are disposed at an authorized facility.
11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized disposal of MSW into or adjacent to waters in the State, in violation of 30 TEX. ADMIN. CODE § 330.15(a)(1) and TEX. WATER CODE § 26.121, as documented during an investigation conducted on December 19, 2013. Specifically, wash water generated from the cleaning of vehicles and equipment was discharged to an

unlined earthen pit approximately 35 feet long, 15 feet wide and three feet deep at the Facility.

2. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on December 19, 2013. Specifically, 65 barrels ("BBLs") of wash water were transported to the Rancho Nuevo Pit ["Railroad Commission" ("RRC") Permit No. PO11057] on November 18, 2013; 16 yards of solids were transported to the Premont Facility on January 27, 2014; 65 BBLs of wash water were transported to the WFI Premont facility on January 27, 2014; and 170 BBLs of wash water were transported to Eco Mud Disposal [RRC Permit No. STF-003 (date not included on manifest)].

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Tomahawk Resources, LLC, Docket No. 2014-0435-MLM-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Ramon Mares  
For the Executive Director

11/25/14  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Jeffrey Brian  
Signature

8-25-2014  
Date

Jeffrey Brian  
Name (Printed or typed)  
Authorized Representative of  
Tomahawk Resources, LLC

Operating member  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.